

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

TRAMAINE D. JERNIGAN,

Petitioner,

v.

CV 10-701 MCA/CG

LAWRENCE JARAMILLO, et al.

Respondents.

**ORDER DENYING WITHOUT PREJUDICE PETITIONER'S MOTION FOR  
EXTENSION OF TIME**

**THIS MATTER** is before the Court upon *Petitioner's Motion for Extension of Time* (Motion). (Doc. 2). Respondents did not file any response to Petitioner's Motion. The Court, being fully advised in this matter, finds Petitioner's Motion not to be well taken and will **DENY** the Motion **WITHOUT PREJUDICE** as moot.

Petitioner's Motion is denied because it is anticipatory. Petitioner's Motion was filed concurrently with Petitioner's underlying *Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody*. (Doc. 1). At the time that Petitioner filed the Motion there were no filings or pleadings that he was obligated to respond to. Petitioner understood that his Motion was anticipatory as the Motion stated, "[c]omes not the Defendant, Tramiane Jernigan, Pro Se, and respectfully asks this court to allow an extension of time (*if needed*) . . .". (Doc. 2) (emphasis added).

In response to the underlying habeas petition, this Court determined that the petition was not subject to summary dismissal and ordered Respondent to file an answer within 30 days. (Doc. 6 at 1). Petitioner will then have an opportunity to reply to Respondent's

answer. Should he find it necessary, Petitioner may seek leave for an extension of time to reply at such time. Therefore, Petitioner's anticipatory Motion is moot as there are no current filings or pleadings that he is obligated to respond to.

**IT IS ORDERED** that *Petitioner's Motion for Extension of Time* (Doc. 2) be **DENIED WITHOUT PREJUDICE** as moot.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal line extending to the right.

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CARMEN E. GARZA  
UNITED STATES MAGISTRATE JUDGE